

HOUSE BILL REPORT

HJR 4209

As Reported by House Committee On:
Judiciary

Brief Description: Eliminating the mandatory retirement age for judges.

Sponsors: Representatives Williams, Darneille, Chase, Moeller, Lantz, Kenney, Ericks, Goodman, Wood, Ormsby and Hunt.

Brief History:

Committee Activity:

Judiciary: 1/31/07, 2/7/07 [DP].

Brief Summary of Bill

- Proposes a constitutional amendment to remove the mandatory retirement age of 75 years for judges of the Supreme Court and Superior Court.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 11 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Flannigan, Kirby, Moeller, Pedersen, Ross and Williams.

Staff: Edie Adams (786-7180).

Background:

The original Washington Constitution vested judicial power in a Supreme Court and Superior Court, and such inferior courts as the Legislature may establish. In 1968, a constitutional amendment was adopted creating a Court of Appeals and providing that the Court of Appeals would be established in statute. As a result, there are a number of constitutional provisions relating to the establishment and operation of the Supreme Court and superior courts, whereas the Court of Appeals and the courts of limited jurisdiction are governed by statute.

Article IV, Section 3(a) of the Washington Constitution requires that judges of the Supreme Court and Superior Court retire at the end of the calendar year in which the judge reaches the age of 75 years. This provision allows the Legislature to set a lesser age for mandatory

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retirement, but not less than 70 years of age. In addition, this provision allows the Legislature to require the retirement of judges for physical or mental disability, or any cause rendering judges incapable of performing their judicial duties. This constitutional provision was adopted by the Legislature in 1951 and approved by the people in 1952.

The Legislature has established the mandatory retirement age of 75 years for not only judges of the Supreme Court and Superior Court, but also for judges of the Court of Appeals and District Court.

Summary of Bill:

An amendment is proposed to Article IV, Section 3(a) of the Washington Constitution to eliminate the mandatory retirement age of 75 years for judges of the Supreme Court and Superior Court. In addition, the proposed amendment eliminates the restriction that the Legislature may set a lesser mandatory retirement age of not less than 70 years.

Appropriation: None.

Fiscal Note: Not requested.

Staff Summary of Public Testimony:

(In support) The genesis of the constitutional provision creating the mandatory retirement age is an example of bad facts making bad law. In the 1950s when this constitutional provision was adopted, a judge had arguably overstayed his welcome. Lacking the means to remove him from office, the presumption that a person over the age of 75 is incompetent to perform the duties of a judge was adopted. This certainly isn't a presumption that applies to other elective offices. If 75 were the mandatory retirement age for other elective offices, we would lose several distinguished members of this Legislature and Congress, and 75 would certainly be considered a young age for the United States Supreme Court. Under this proposal we retain the ability to remove incompetent judges of any age, but we remove the presumption that people become incompetent when they reach age 75.

(Opposed) None.

Persons Testifying: Representative Williams, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.